

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TIM BURGESS,

Plaintiff,

VS.

JAMES M. WEBSTER,

Defendant.

Case No. 4:22-cv-01158-AGF

MEMORANDUM AND ORDER

The matter is before the Court on review of the file. On December 6, 2023, the Court denied Plaintiff's motion for default judgment without prejudice. Doc. No. 17. The Court further instructed Plaintiff that in the event he wanted to file a second motion for default judgment that was consistent with the requirements set out in the Court's order, he must do so promptly. *Id.* As of February 7, 2024, Plaintiff had failed to file a second motion for default judgment.

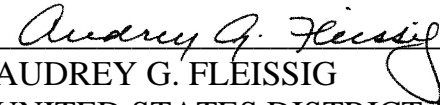
The Court then instructed Plaintiff that any revised motion for default judgment must be filed by February 21, 2024 or the case would be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b). *See* Doc. No. 18; *see also Thompson v. Steed*, 369 F. App’x 763, 764 (8th Cir. 2010) (addressing the district court’s discretion to dismiss a case for failure to prosecute); *First Gen. Res. Co. v. Elton Leather Corp.*, 958 F.2d 204, 206 (8th Cir.1992) (per curiam) (upholding dismissal under Rule 41(b) in part because district court “expressly warned” appellants that case could be dismissed).

As of the date of this order, Plaintiff has failed to file any revised motion for default judgment or otherwise respond to the Court's orders.

Accordingly,

IT IS HEREBY ORDERED that this matter is **DISMISSED without prejudice** for failure to prosecute under Federal Rule of Civil Procedure 41(b).

All claims against all parties having been resolved, the Clerk of Court shall close this case.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 5th day of March, 2024.